



DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM16-17-001, ER21-331-000, ER21-330-000]

Data Collection for Analytics and Surveillance and Market-Based Rate Purposes,

DDP Specialty Electronic Materials US, Inc., MC (US) 3, LLC; Order on Intent to

Revoke Market-Based Rate Authority

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d, and 18 CFR part 35 (2022), require, among other things, that all rates, terms, and conditions for jurisdictional services be filed with the Commission. In Order No. 697 and its progeny,¹ the Commission established certain requirements with which sellers² must comply in order to obtain and retain market-based rate authority.³

In Order No. 860,⁴ the Commission revised certain aspects of the substance and format of the ownership information sellers must submit in order to obtain or retain market-based rate authority. Specifically, Order No. 860 requires that, as part of its market-based rate application or baseline submission, a seller must identify its ultimate upstream affiliate(s) through a new relational database.⁵

¹ *Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295 *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *order on reh'g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *order on reh'g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011).

² A “seller” is defined as any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the FPA. 18 CFR 35.36(a)(1) (2022); 16 U.S.C. 824d. Each seller is a public utility under section 205 of the FPA. 16 U.S.C. 824.

³ Order No. 697, 119 FERC ¶ 61,295 at n.258.

⁴ *Data Collection for Analytics & Surveillance and Mkt.-Based Rate Purposes*, Order No. 860, 168 FERC ¶ 61,039 (2019), *order on reh'g*, Order No. 860-A, 170 FERC ¶ 61,129 (2020).

⁵ Order No. 860, 168 FERC ¶ 61,039 at P 121.

2. In accordance with Order No. 860, as modified by Order No. 860-A, the Order Adopting Revisions to Information Collection,⁶ and the Notice of Extension of Time,⁷ each seller with a market-based rate tariff on file with the Commission was required to make a baseline submission to the market-based rate relational database by February 1, 2022.⁸ Commission staff's review of the baseline submissions to the market-based rate relational database indicates that the sellers with market-based rate authorization listed in the caption of this order failed to file their baseline submissions. This order notifies these sellers that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.⁹

3. To comply with the Commission's requirements, the above-captioned sellers must file their baseline submissions to the market-based rate relational database consistent with the procedures set forth in Order Nos. 860, 860-A, and the Order Adopting Revisions to Information Collection.

4. In the event any of the above-captioned sellers have already submitted their baseline submissions in compliance with the Commission's requirements, their inclusion herein is inadvertent. Such sellers are directed to make a filing with the Commission, within 15 days of the date of issuance of this order, to identify themselves and provide details about their prior submissions to establish that they complied with the Commission's market-based rate relational database filing requirements.

5. If any of the above-captioned sellers do not wish to continue having market-based rate authority, they may file a notice of cancellation of their market-based rate tariffs with the Commission pursuant to section 205 of the FPA.

⁶ *Data Collection for Analytics & Surveillance and Mkt.-Based Rate Purposes*, 176 FERC ¶ 61,109 (2021) (Order Adopting Revisions to Information Collection).

⁷ *Data Collection for Analytics and Surveillance and Mkt.-Based Rate Purposes*, Notice of Extension of Time, Docket No. RM16-17-000 (Oct. 22, 2021).

⁸ A baseline submission consists of "market-based rate information," which includes (a) seller category status for each region in which the seller has market-based rate authority, (b) each market in which the seller is authorized to sell ancillary services at market-based rates, (c) mitigation, if any, and (d) whether the seller has limited the regions in which it has market-based rate authority. A baseline submission also consists of "market-based rate ownership information," which includes ultimate upstream affiliates; and affiliate owners with franchised service areas, market-based rate authority, or that directly own or control generation; transmission, intrastate natural gas transportation, storage or distribution facilities, physical coal supply sources or ownership of or control over who may access transportation of coal supplies, and asset appendix information. Order No. 860, 168 FERC ¶ 61,039 at P 185.

⁹ Commission staff contacted or attempted to contact the sellers to remind them of their regulatory obligations. Despite these reminders, however, the sellers listed in the caption of this order have not met these obligations.

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each seller listed in the caption of this order shall file with the Commission its delinquent baseline submission to the market-based rate relational database. If a seller subject to this order fails to make the filings required in this order, the Commission intends to revoke that seller's market-based rate authorization and intends to terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the sellers whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's market-based rate relational database requirements.

(B) The Secretary is hereby directed to publish this order in the *Federal Register*.

By the Commission.

Issued April 20, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

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